

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SSGT. JASON A. ADKINS, USAF,)	C.A. NO.: 04-1453-JJF
)	
Plaintiff,)	
)	
v.)	
)	
DONALD H. RUMSFELD,)	
Secretary of Defense; <i>et al.</i> ,)	
)	
Defendants.)	

**MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO
APPEAR WITHOUT LOCAL COUNSEL**

Pursuant to 28 U.S.C. §§ 515, 517, 518, the United States respectfully moves this Court for an Order allowing Department of Justice Attorney, Jeffrey D. Kahn, to appear before this Court without local counsel. Additionally, the United States requests that Mr. Kahn be provided with an electronic filing password so that he can remotely file pleadings with this Court. In support of this motion, the United States provides the following:

1. The statutes of the United States allow for the Attorney General to send its attorneys to state and federal courts throughout the nation. See 28 U.S.C. § 515 (the Attorney General or any other officer of the Department of Justice may conduct any kind of legal proceeding which United States attorneys are authorized by law to conduct, whether or not he/she is a resident of the district in which the proceeding is brought); 28 U.S.C. § 517 (any officer of the Department of Justice may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State); 28 U.S.C.

§ 518 (The Attorney General may direct an officer of the Department of Justice to conduct and argue any case in a court of the United States in which the United States is interested). Thus, to the extent that Local Rule 83.5 of this Court requires that Department of Justice attorneys based in Washington, DC, associate with local counsel, it would appear to conflict with the above-referenced statutes. See Fed. R. Civ. P. 83(a)(1) (local rules must be consistent with Acts of Congress). Accordingly, the United States respectfully requests that, in this particular case, the Court waive the local counsel requirement of Local Rule 83.5.

2. In this matter, the Attorney General has assigned primary responsibility for this case to the Department's Federal Programs Branch in Washington, DC. In turn, the Federal Programs Branch has designated Jeffrey Kahn as the lead attorney.

3. Department of Justice attorney Jeffrey Kahn has already been admitted to this Court *pro hac vice*. As such, he has submitted to the disciplinary jurisdiction of this Court, and has certified that he is generally familiar with this Court's Local Rules. Additionally, Mr. Kahn is an able and competent attorney. Mr. Kahn graduated from the University of Michigan Law School in May 2002. He is an active member of the State Bar of Michigan. He clerked for the Hon. Thomas P. Griesa of the United States District Court for the Southern District of New York from August 2002 to August 2003. Following his clerkship, Mr. Kahn was selected for employment with the Justice Department through the Attorney General's Honors Program. Mr. Kahn has served as a Trial Attorney in the Federal Programs Branch, Civil Division, from October 2003 to the present. In that capacity, Mr. Kahn has been the lead attorney in over twenty federal

cases. He has represented the interests of the federal government in oral arguments in the District of Columbia, the District of Utah, and in the Eastern District of Virginia.

Additionally, he has taken and defended a number of depositions. Mr. Kahn has also filed briefs or otherwise appeared (in person or telephonically) in federal courts in Colorado, Massachusetts, Montana, Pennsylvania, New Jersey, and New Hampshire.

4. Undersigned counsel has communicated with opposing counsel (Stephen J. Neuberger) concerning the subject of this motion and he stated that he has no objection.

Accordingly, for the reasons set forth above, the United States respectfully requests that Department of Justice Attorney, Jeffrey D. Kahn, be allowed to appear before this Court without local counsel and that he be provided with an electronic filing password so that he can remotely file pleadings with this Court. A proposed order is attached hereto.

Dated: April 13, 2005

/S/

Rudolph Contreras

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Jeffrey D. Kahn, Esq. (MI Bar # P65270)

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Jeffrey.Kahn@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April 2005, I electronically filed the attached MOTION TO ALLOW DEPARTMENT OF JUSTICE ATTORNEY TO APPEAR WITHOUT LOCAL COUNSEL with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Stephen J. Neuberger, Esq.
Two East Seventh Street, Suite 302
Wilmington, DE 19801

_____/S/_____
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ORDER

UPON CONSIDERATION of the United States' motion to allow Department of Justice Attorney, Jeffrey D. Kahn, to appear without local counsel, the reasons stated therein, the lack of any opposition thereto, and the entire record herein, it is the ____ day of _____, 2005 hereby

ORDERED that the United States' motion should be and it hereby is granted; and it is,

FURTHER ORDERED that, for this matter only, Local Rule 83.5(d) is waived, and Department of Justice Attorney, Jeffrey D. Kahn, is not required to associate with local counsel nor is the United States Attorney's Office required to sign pleadings nor attend proceedings with him; and it is,

FURTHER ORDERED that the Clerk's Office provide Department of Justice Attorney, Jeffrey D. Kahn, with an Electronic Filing Log-In and Password so that he may

file pleadings in this Court without the participation of the United States Attorney's Office.

UNITED STATES DISTRICT JUDGE